

ZIMMERMAN REED LLP
Caleb Marker (SBN 269721)
E-mail: caleb.marker@zimmreed.com
Flinn T. Milligan (SBN 323042)
Email: flinn.milligan@zimmreed.com
Arielle Canepa (SBN 329546)
Email: arielle.canepa@zimmreed.com
2381 Rosecrans Avenue, Suite 328
Manhattan Beach, CA 90245
(877) 500-8780 Telephone
(877) 500-8781 Facsimile

Attorneys for Plaintiff Frederick Sims

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FREDERICK SIMS, an individual, on behalf of
the general public,

Plaintiff,

v.

OPPORTUNITY FINANCIAL, LLC, a
Delaware Company, d/b/a OPPLOANS,
FINWISE BANK, a Utah Corporation, and
DOES 1-100, inclusive,

Defendants.

CASE NO.: 4:20-cv-04730-PJH

Assigned to the Honorable Phyllis J. Hamilton

**JOINT STIPULATION TO EXTEND PAGE
LIMITS AND BRIEFING SCHEDULE ON
DEFENDANTS' MOTION TO DISMISS
FIRST AMENDED COMPLAINT **AS
MODIFIED BY THE COURT****

Date Action Filed: May 11, 2020

Date Removed: July 15, 2020

FAC Filed: September 1, 2020

Courtroom: 3, 3rd Floor

Trial Date: TBD

1 Plaintiff Frederick Sims (“Plaintiff”) and Defendant Opportunity Financial, LLC, and FinWise
2 Bank (“Defendants”) (collectively “the Parties”), by the through the undersigned respective counsel,
3 hereby stipulate and agree as follows:

4 WHEREAS, on May 11, 2020, Plaintiff filed a complaint against Defendants in the Superior
5 Court of California for the County of Alameda.

6 WHEREAS, on July 15, 2020, Defendants removed the case to this Court.

7 WHEREAS, on August 17, 2020, the Court approved the parties’ stipulation to extend the page
8 limit for Defendants’ motion to dismiss from 25 to 35 pages.

9 WHEREAS, on August 19, 2020, Defendants filed a motion to dismiss Plaintiff’s Complaint,
10 the hearing of Defendants’ motion currently scheduled for September 23, 2020.

11 WHEREAS, on September 1, 2020, Plaintiff filed an Amended Complaint (“FAC”), which
12 mooted the pending motion to dismiss and added new claims for relief.

13 WHEREAS, Defendants intend to move to dismiss (“Motion”) the FAC and notice a hearing
14 pursuant to Local Rule 7-2(a) on or before October 7, 2020, pursuant to a stipulation of the parties.

15 WHEREAS, to promote judicial economy and avoid duplicative briefing, OppLoans and
16 FinWise have agreed to file a single, consolidated Motion.

17 WHEREAS, Local Rule 7-3(a) requires Plaintiff to file an opposition to Defendants’ Motion not
18 more than 14 days after the filing of the Motion.

19 WHEREAS, Local Rule 7-3(c) requires Defendants’ reply brief to be filed and served not more
20 than 7 days after the opposition is due.

21 WHEREAS, given the breadth of the issues in the entitled action, complexity of the state and
22 federal law at issue, and ongoing federal rulemaking, the Parties have agreed to extensions without
23 objection and now agree that Plaintiff, as to his opposition to Defendant’s Motion, and Defendants, as
24 to their reply, shall, with the Court’s approval, be allowed additional time to file each of their respective
25 memoranda.

26 The parties agree that in light of the complex issues raised by the FAC and the fact that
27 Defendants have agreed to forego separate briefs and instead file a consolidated brief, good cause exists
28 to extend the existing page limits for the Motion.

NOW WHEREFORE, IT IS HEREBY STIPULATED by and between the Parties, through their respective counsel and subject to approval of this Court, that:

- Defendants shall notice their anticipated Motion to Dismiss for hearing on January 6, 2021;
- Plaintiff shall file and serve his Opposition to Defendants Motion on or before November 18, 2020.
- Defendants' Reply in Support of their Motion shall be filed and served on or before December 16, 2020.
- The page limit for Defendants' memorandum of points and authorities in support of their motion to dismiss and Plaintiffs' opposition thereto shall be 40 pages. The page limit for Defendants' reply brief in support of their motion to dismiss shall be 30 pages. The court does not permit excessive footnotes and requires that any be in the same size font as body text.
- The initial case management conference in this action is continued to February 18, 2021.

IT IS SO STIPULATED.

ZIMMERMAN REED LLP

Date: September 18, 2020

By: /s/ Caleb Marker
Caleb Marker
Flinn Milligan
Arielle Canepa
Attorney for Plaintiff Frederick Sims

BUCKLEY LLP

Date: September 17, 2020

By: /s James R. McGuire
James R. McGuire
Lauren L. Erker
Michael A. Rome
Attorney for Defendant Opportunity Financial LLC

HUDSON COOK

Date: September 17, 2020

By: /s Mark Rooney
Allen Denson
Mark Rooney
Attorney for Defendant FinWise Bank

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: September 21, 2020

/s/ Phyllis J. Hamilton
The Honorable Phyllis J. Hamilton
United States District Judge

ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that the concurrence in the filing of this document has been obtained from all signatories above.

/s/ Caleb Marker

Caleb Marker